

Decision of the Dispute Resolution Chamber

passed in Zurich, Switzerland, on 2 November 2007,

in the following composition:

Slim Aloulou (Tunisia), Chairman

Gerardo Movilla (Spain), member

Essa M. Saleh Al-Housani (U.A.E.), member

John Didulica (Australia), member

Mohamed Mecherara (Algeria), member

on a matter between the club

A, xxxxx

and the club

B, xxxxx

and the club

C, xxxxx

as Intervening party

regarding the solidarity contribution related to the
transfer of the player X.

I. Facts of the case

1. According to the Football Association of xxx the player X, born on 24 March 1977, was registered with A (hereafter: A) as from 14 March 1997 until 24 February 1999 and as from 2 August 1999 until 1 August 2000.
2. According to the relevant transfer agreement remitted to FIFA the player was loaned on 28 August 2005 for an amount of USD 100,000 from C to B. By the end of the loan period, i.e. on 31 December 2005 the player was transferred definitely to the aforementioned for the amount of USD 500,000.
3. On 2 January 2007, A contacted FIFA asking for its proportion of the solidarity contribution, in particular, it claimed 29,51% of 5% of the amount paid by B to C.
4. B informed FIFA that it paid the entire amount in connection with the loan and the definitive transfer of the player concerned to C. Therefore, in case it should pay any solidarity contribution in connection with the player concerned, C should reimburse the relevant amount of solidarity mechanism.
5. C informed FIFA that it contractually agreed with B that the amounts of USD 100,000 and USD 500,000 were net payments without any deductions. Therefore, C deemed that it neither has to reimburse any amount at all to B nor to pay any amount to A. C argued that it was agreed *inter partes* that it would receive the full amount of USD 100,000, respectively USD 500,000 and not less and that it is the responsibility of B to comply with the FIFA Regulations.
6. FIFA informed the clubs concerned by the present procedure of the well-established jurisprudence of the Dispute Resolution Chamber applied in cases in which the new club omitted to deduct the relevant proportion(s) of the 5% solidarity contribution, from the paid compensation, and invited them to consider it accordingly.
7. The clubs involved did not consider the well-established jurisprudence of the Dispute Resolution Chamber and thus a decision had been requested.

II. Considerations of the Dispute Resolution Chamber

1. First of all, the Chamber analysed whether it was competent to deal with the matter at stake. In this respect, it referred to art. 18 par. 2 and 3 of the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber. The present matter was submitted to FIFA on 2 January 2007 as a consequence the Chamber concluded that the revised Rules Governing Procedures (edition 2005) are applicable on the matter at hand.

2. With regard to the competence of the Chamber, art. 3 par. 1 of the above-mentioned Rules states that the Dispute Resolution Chamber shall examine its jurisdiction in the light of articles 22 to 24 of the current version of the Regulations for the Status and Transfer of Players (edition 2005). In accordance with art. 1 par. 1 of the aforementioned Regulations, which describes the scope and the field of application of the relevant Regulations, in connection with articles 24 par. 1 and 22 (d) of the said Regulations, the Dispute Resolution Chamber shall adjudicate on disputes between two clubs in connection with an international transfer of a professional player related to solidarity mechanism.
3. As a consequence, the Dispute Resolution Chamber is the competent body to decide on the present litigation concerning the distribution of the solidarity contribution in connection with the international transfer of the professional X.
4. Subsequently, the members of the Chamber analyzed which edition of the Regulations for the Status and Transfer of Players should be applicable as to the substance of the matter. In this respect, the Chamber referred to art. 26 par. 1 and 2 of the Regulations for the Status and Transfer of Players (edition 2005) in the modified version in accordance with the FIFA circular no. 995 dated 23 September 2005. Furthermore, it acknowledged that the professional had been registered for his new club in August 2005. Equally the Chamber took note that the claim was lodged at FIFA in January 2007. In view of the aforementioned, the Chamber concluded that the current FIFA Regulations for the Status and Transfer of Players (edition 2005, hereafter: the Regulations) are applicable to the case at hand as to the substance.
5. In continuation, and entering into the substance of the matter, the members of the Chamber started by acknowledging that A is requesting 29,51% of 5% of the amount paid by B to C in connection with the international transfer of the professional X.
6. Moreover, the Chamber duly noted that according to the relevant transfer agreement remitted to FIFA the player was loaned on 28 August 2005 for an amount of USD 100,000 from C to B and that by the end of the loan period, i.e. on 31 December 2005 the player was transferred definitely to the aforementioned club for the amount of USD 500,000.
7. In continuation, the members of the Chamber emphasised that, as established in the art. 10 par. 1 and art. 21 of the Regulations in connection with Annex 5 of the Regulations, if a professional moves during the course of a contract, 5% of any compensation, not including training compensation paid to his former club, shall be deducted from the total amount of this compensation and to be distributed by the new club as solidarity contribution to the club(s) involved in the training and education of the player in proportion to the number of years the player has been

registered with the relevant clubs between the sporting seasons of his 12th and 23rd birthday.

8. In this respect, the Chamber took due note that the Football Association of xxxx confirmed that the player X, born on 24 March 1977, was registered with A as from 14 March 1997 until 24 February 1999 and as from 2 August 1999 until 1 August 2000.
9. In continuation, the Chamber duly noted that B (the player's new club) asserts having paid the entire amount of USD 100,000 as well as USD 500,000 agree upon as transfer compensation, to C (the player's previous club). In other words, B omitted to deduct 5% of the relevant transfer compensation relating to the solidarity mechanism.
10. In this respect, the Chamber acknowledged that B requests that in case it should pay any solidarity contribution C should reimburse the relevant amount of solidarity contribution.
11. Furthermore, the Chamber observed that C argued that it was agreed *inter partes* that it would receive the full amount of USD 100,000, respectively USD 500,000 and not less and that it is the responsibility of B to comply with the FIFA Regulations.
12. In this respect, the Chamber noted that according to the relevant transfer agreement C and B agreed on a loan compensation amounting to USD 100,000 and on a definitive transfer compensation amounting to USD 500,000 of the "*federative rights*" to the player concerned.
13. First and foremost, the Chamber was eager to emphasise that since 1 September 2001, the date of the entry into force of the completely reviewed version of the FIFA Regulations for the Status and Transfer of Players (edition 2001) the concept of the so-called "*federative rights*" to players does not exist anymore. It was replaced by the principle of maintenance of contractual stability between the contracting parties (cf. Chapter VIII, art. 21 and following of the 2001 Regulations corresponding to Chapter IV, art. 13 of the Regulations). In particular, the Chamber emphasised that a player and a club may only be contractually bound due to a valid employment contract.
14. Subsequently, the Chamber referred to its well-established jurisprudence applied in similar cases, in accordance with which the player's new club is ordered to remit the relevant proportion(s) of the 5% solidarity contribution to the club(s) involved in the player's training in strict application of art. 1 and 2 of the Annexe 5 to the Regulations. At the same time, the player's former club is ordered to reimburse the same proportion(s) of the 5% of the compensation that it received from the player's new club.

15. As a result and in consideration of the above-stated jurisprudence, the Chamber decided to reject the allegations of B and C.
16. In view of the above, as well as considering the points II. 7 and 8 above, the Chamber decided that A is entitled to receive the claimed proportion of 29,51% of 5% of the loan compensation as well as of the transfer compensation paid for the player in question as solidarity contribution from B.
17. Based on all of the above, the Dispute Resolution Chamber decided that B must pay to A the amount of USD 1,475,50 (in connection with the loan) and the amount of USD 7,377,50 (in connection with the definitive transfer), i.e. the total amount of USD 8,853 and that C must reimburse the amount of USD 8,853 to B.

III. Decision of the Dispute Resolution Chamber

1. The claim of A is accepted.
2. B has to pay the amount of USD 8,853 to A **within 30 days** as from the date of notification of this decision.
3. If the aforementioned sum is not paid within the aforementioned deadline an interest rate of 5% per year will apply as of expiry of the fixed time limit and the present matter shall be submitted to FIFA's Disciplinary Committee, so that the necessary disciplinary sanctions may be imposed.
4. A is directed to inform B directly and immediately of the account number to which the remittance is to be made and to notify the Dispute Resolution Chamber of every payment received.
5. C has to reimburse the amount of USD 8,853 to B **within 30 days** as from the date of notification of the present decision.
6. If the aforementioned sum is not paid within the aforementioned deadline an interest rate of 5% per year will apply as of expiring of the fixed time limit and the present matter shall be submitted to FIFA's Disciplinary Committee, so that the necessary disciplinary sanctions may be imposed.
7. B is directed to inform C directly and immediately of the account number to which the remittance is to be made and to notify the Dispute Resolution Chamber of every payment received.
8. According to art. 61 par. 1 of the FIFA Statutes, this decision may be appealed against before the Court of Arbitration for Sport (CAS). The statement of appeal

must be sent to the CAS directly within 21 days of receipt of notification of this decision and shall contain all the elements in accordance with point 2 of the directives issued by the CAS, a copy of which we enclose hereto. Within another 10 days following the expiry of the time limit for filing the statement of appeal, the appellant shall file a brief stating the facts and legal arguments giving rise to the appeal with the CAS (cf. point 4 of the directives).

The full address and contact numbers of the CAS are the following:

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For the Dispute Resolution Chamber:

Markus Kattner
Deputy General Secretary

Encl. CAS directives